
UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

LARRY FLOWERS,

Plaintiff,

versus

MICHAEL GAINS,

Defendant.

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CIVIL ACTION NO. 1:08-CV-116

**MEMORANDUM ORDER PARTIALLY ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff Larry Flowers, proceeding *pro se*, filed the above-styled civil rights lawsuit. The court referred this matter to the Honorable Earl S. Hines, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge recommending this lawsuit dismissed without prejudice pursuant to 28 U.S.C. § 1915(g).

The court has received the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings, and all available evidence. No objections were filed to the magistrate judge's Report and Recommendation.

However, plaintiff subsequently filed a motion asking that this action be dismissed. Pursuant to Federal Rule of Civil Procedure 41(a)(1), plaintiff is entitled to dismiss his claims prior to the service of any adverse parties.

ORDER

Accordingly, plaintiff's motion to dismiss is **GRANTED**. The report of the magistrate judge is **PARTIALLY ADOPTED** to the extent it recommends this lawsuit be dismissed. A final judgment will be entered dismissing this lawsuit pursuant to Federal Rule of Civil Procedure 41(a)(1).

SIGNED at Beaumont, Texas, this 8th day of April, 2008.

A handwritten signature in black ink, reading "Marcia A. Crone", is positioned above a horizontal line.

MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE